

November 14, 2005

Ex Parte

Mr. Kevin J. Martin, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *IP-Enabled Services, WC Docket No. 04-36;*
E911 Requirements for IP-Enabled Service Providers, WC Docket No.
05-196

Dear Chairman Martin:

On behalf of Vonage Holdings Corp and its subsidiaries (“Vonage”), this letter is being submitted to provide you and the Commission with information it believes will be helpful in accelerating E911 deployment for interconnected VoIP providers (“IVPs”) in accordance with the Commission’s *Order*.¹

Vonage shares the Commission’s goal—to deploy E911 service for all subscribers as soon as possible—and has dedicated considerable resources towards turning up an E911 system faster than anyone believed feasible. As discussed below, Vonage has undertaken painstaking efforts to develop and acquire the systems, capabilities, methods and procedures to provide E911 services in a fully nomadic environment. As of today, this Commission is on track to achieve the fastest nomadic E911 deployment yet. Your personal leadership and the work of this Commission have been an essential catalyst for action. We believe additional measures would hasten achievement of the Commissions’ full objectives.

With these shared goals in mind, Vonage respectfully suggests the Commission should : (1) appoint an administrator to assign pANI-ESQK and take other reasonable measures necessary to facilitate the assignment of pANI-ESQK to IVPs; (2) provide the administrator and others the time necessary to deploy these E911 elements; and (3) take steps to ensure that Enforcement Bureau policies incent rather than discourage necessary ILEC cooperation. As Vonage has already demonstrated in Verizon territory (as detailed

¹ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers, First Report and Order and Notice of Proposed Rulemaking, FCC 05-116 (rel. June 3, 2005) (“Order”).*



below), if this Commission receives full ILECs and PSAP cooperation Vonage can rapidly complete the full deployment of its E911 network.

In order to meet its obligations under the *Order*, Vonage has expended considerable time and effort and has allocated significant resources and personnel toward deploying a nomadic E911 solution. Since June 2005, Vonage has had 125 people working on its E911 compliance initiative. During this period, Vonage has either directly or indirectly through one of its third-party vendors visited or spoken via telephone with thousands of Public Safety Answering Point (“PSAP”) representatives in all 50 States, the District of Columbia and Puerto Rico.

In order to access the wireline E911 network, Vonage had to first build the hardware and software infrastructure to access the selective routers. These efforts commenced prior to the issuance of the Commission’s *Order* when, in October 2004, Vonage began offering E911 services to customers in Rhode Island. As of October 17, 2005, Vonage has deployed a network that will enable direct selective router access for over 90% of its customers.

To complete its E911 solution, however, Vonage must not only access the selective routers, but rely upon the cooperation of ILECs, PSAPs and other third parties to route the call to the appropriate PSAP. As stated in the Commission’s *Order*, portable or nomadic VoIP services such as those offered by Vonage face significant E911 implementation challenges when compared to services that are fixed.² While Vonage believes this is an accurate assessment, it has also been Vonage’s experience that these challenges can be significantly mitigated where pANI-ESQK is available and the meaningful and active cooperation of the 911 system service provider—typically the ILEC—is obtained.³ The Commission itself recognized the importance of ILEC cooperation when it stated in its *Order* that although it would not require ILEC’s make access directly available to IVPs “it expects and strongly encourage[s] all parties involved to develop and deploy VoIP E911”⁴

In this regard, Vonage commends the leadership and initiative exhibited by Verizon. Although many new systems, products and procedures needed to be developed to deploy VoIP E911, Verizon has been Vonage’s most engaged and proactive partner in this process. In addition to providing Vonage the pANI-ESQK elements critical for deploying a nomadic VoIP E911 solution, Verizon dedicated senior management

² See *Order*, ¶ 25, n.80.

³ While the 911 system service provider’s cooperation is also instrumental for rapid deployment, so too is the cooperation of PSAPs, VPCs and other third-parties outside of the direct control of the IVP. Because the 911 system service provider has an ongoing relationship with PSAPs, the service provider’s cooperation in coordinating deployment can make a dramatic difference in deployment timelines.

⁴ See *Order*, ¶ 40. The Commission also stated that incumbent LECs are common carriers subject to sections 201 and 202 of the Act. The Commission promised that it would closely monitor efforts and would not hesitate to take further proactive steps if necessary. *Id.*



resources and has taken other significant steps to satisfy the Commission's clear expectation that parties—including competitors—would work cooperatively to develop and deploy VoIP E911 solutions.⁵ Because of these efforts Vonage is pleased to advise the Commission that it believes it will be capable of delivering E911 calls in compliance with the FCC's *Order* throughout most of Verizon's territory on November 28th, 2005.⁶

As Vonage and others have previously advised the Commission, pANI-ESQK availability is an essential gating item for nomadic VoIP E911 deployment.⁷ As detailed

⁵ For the benefit of the Commission and others, Vonage provides its observation that five factors distinguish Verizon from each of the other ILECs with respect to the E911 deployment process. Vonage believes that these factors have significantly contributed to the success in the Verizon footprint. By appointing a pANI-ESQK administrator or allowing IVPs access to pANI-ESQK and by encouraging other ILECs to adopt such processes, Vonage believes deployment timelines throughout much of the remainder of the country could be significantly compressed. Specifically, Vonage notes that Verizon: (1) provides a single point of contact for E911 provisioning; (2) proactively contacts each of the primary PSAPs to obtain a single ESN and gain concurrence on the shell record build; (4) activates selective router routing at the time of shell record creation; (5) provisions the necessary pANI-ESQK to Vonage and utilizes the pANI-ESQK requests to trigger the build process for shell records; (6) quickly activates ALI steering and ESQK provisioning upon VPC/VSP request via a consistent and well-established process; and (7) has a significantly streamlined ordering process that utilizes one system ASR rather than an individual ASR and form per trunk order.

⁶ Vonage will not be completely deployed by the November 28th deadline in Verizon territory due, in part, to our mutual desire to work in cooperation with the California Department of General Services and abide by guidelines that were not issued until October 30th 2005. See www.td.dgs.ca.gov/Services/911/VoIP.htm. The California DGS has been a valuable partner in coordinating VoIP E911 deployment and Vonage believes that the urgency of the November 28th deadline must be tempered by the requests that some state 911 coordinators may have in developing uniform guidelines that are otherwise reasonable and not inconsistent with the requirements of the Commission *Order*.

⁷ See, e.g., *Ex Parte* Letter from Robert C. Atkinson, NANC Chair to Thomas Navin, Chief Wireline Competition Bureau, FCC (filed Sept. 8, 2005) ("*NANC pANI Request*"); *Ex Parte* Letter from David F. Jones, President, National Emergency Number Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-196, at 1 (filed Nov. 4, 2005); *Ex Parte* Letter from Tom Goode, Associate General Counsel, Alliance for Telecommunications Solutions, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-196, at 2 (filed Nov. 2, 2005). See also *Vonage Holdings Corp. Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, Emergency Request for Expedited Approval of Vonage's Petition for Limited Waiver of Section 52.15(g)(2)(i), CC Docket No. 99-200 (filed May 26, 2005); *Ex Parte* Letter from William B. Wilhelm, Jr., Tamar E. Finn and Ronald W. Del Sesto, Counsel for Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36, 05-196 & 99-200, at 1 (filed June 29, 2005). See generally *Ex Parte* Letter from William B. Wilhelm, Jr., Counsel for Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36, at 1 (filed May 4, 2005); *Ex Parte* Letter from William B. Wilhelm, Jr., Counsel for Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36, at 2 (filed May 5, 2005); *Ex Parte* Letter from William B. Wilhelm, Jr., Counsel



in the *Hatfield Report*, most selective routers use 25-year old technology that is capable of processing no more than a few area codes.⁸ As a result, pANI-ESQK is necessary to route a non-regional telephone number through the local selective router. By using pANI-ESQK a nomadic IVP can dynamically assign a number that includes an area code recognized by the relevant selective router thereby allowing a call to pass through and reach the appropriate PSAP. This pANI-ESQK is then utilized to obtain the subscriber's dynamically updated address information.

While Verizon is to be commended for voluntarily making available essential pANI-ESQK elements, other ILECs have either not made pANI-ESQK available or have delayed issuing pANI-ESQK for many months, in some cases while they wait for the pANI-ESQK administrator to be assigned. While the Commission's 120 day deadline was based upon certain expectations, it may not have fully appreciated how this delay in obtaining pANI-ESQK or the absence of an administrator could impact E911 deployment timelines. For this reason a number of parties, including the National Emergency Number Association ("NENA"), the North American Numbering Counsel ("NANC") and the NANC's pANI Issue Management Group, as well as the Emergency Services Interconnection Forum have all previously recommended that the Commission immediately establish a pANI-ESQK administrator.⁹ Vonage concurs.

Without pANI-ESQK, nomadic VoIP 911 can not be deployed. Significantly, in areas where ILECs will not provision pANI-ESQK, neither IVPs, VPCs nor CLEC carriers can obtain these resources. Accordingly, IVPs can not obtain these resources either directly or indirectly. By appointing a pANI-ESQK administrator and providing it and IVPs with additional time to allocate and deploy these resources, the Commission will be taking a necessary and important step toward the deployment of the next generation of E911.

It is important to note that even if IVPs were certificated telecommunications carriers they could still would not get access to pANI-ESQK. Only wireless carriers are assigned pANI-ESQK under ILEC tariffs. It is telling that Vonage's commercial partners, Title II telecommunications carriers, are not able to obtain pANI-ESQK. These certificated carriers do not have access to the pANI-ESQK and CLEC interconnection

for Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36, at 2-3, 6 (filed May 9, 2005); *Ex Parte* Letter from William B. Wilhelm, Jr., Counsel for Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-65, at 1 (filed May 10, 2005); *Ex Parte* Letter from William B. Wilhelm, Jr., Counsel for Vonage Holdings Corp., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 99-200, at 1 (filed July 21, 2005).

⁸ See Dale N. Hatfield for the Federal Communications Commission, *A Report on the Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911 Services*, WT Docket No. 02-46, at 4-5 (filed Oct. 15, 2002).

⁹ See *NANC pANI Request* (noting on September 8, 2005 that a pANI administrator needed to be immediately appointed if IVPs were going to be able meet the requirements of the November 28th obligation). See also *supra* note 6.



agreements do not provide for access to the resources. For this reason the appointment of an administrator is necessary and appropriate.

Finally, with regard to the recent *Public Notice* issued by the Enforcement Bureau, Vonage is concerned that this informal guidance will inadvertently create real incentives that will slow or otherwise impair the tremendous progress this Commission has already made in encouraging IVPs, ILEC and other competitors, to work cooperatively—albeit on a voluntary basis—to deploy VoIP 911 in record time.¹⁰ Specifically, the *Public Notice* articulates the Bureau’s expectation that IVPs will “discontinue marketing VoIP service, and accepting new customers for their service, in all areas where they are not transmitting 911 calls to the appropriate PSAP in full compliance with the Commission’s rules.”¹¹ Vonage respectfully urges the Bureau to reconsider.

As highlighted above, given sufficient time, IVPs can successfully deploy VoIP 911 where pANI-ESQK is available and third party 911 system service providers—such as Verizon—offer their voluntary cooperation. The Bureau’s *Public Notice*, however, creates powerful disincentives for providers to participate in such cooperative initiatives. Under the Bureau’s proposed framework, Qwest, a carrier that, unlike Verizon, has not offered to make pANI-ESQK available, would be rewarded with an expectation that nomadic VoIP providers are prevented from selling their competitive services throughout its territory as long as Qwest continues to deny access to this essential E911 element.¹² Verizon on the other hand, having worked in earnest to achieve the objectives of this Commission, must tolerate the fact that Qwest receives a marketplace advantage that it does not enjoy

Rather than using the 911 system as a competitive lever, Verizon has properly acknowledged that the 911 system is a public trust and, as such, has undertaken good faith efforts to comply with the spirit and goals of the *Order*. To convey an advantage to providers who have not shown Verizon’s level of cooperation will not only encourage

¹⁰ Vonage commends the Bureau for clarifying its expectation that IVPs that have not achieved full 911 compliance need not discontinue the provision of VoIP service to existing customers. Currently over 98% of Vonage’s existing customers have affirmatively acknowledged the differences between traditional 911 and the 911 service provided by Vonage. While many of these customers will have E911 by November 28th, customers that will not, have received accurate information in the form of numerous notifications regarding the service limitations.

¹¹ Public Notice, FCC, Enforcement Bureau Outlines Requirements of November 28, 2005 Interconnected Voice Over Internet Protocol 911 Compliance Letters, WC Docket Nos. 04-36 & 05-196, DA 05-2945, at 5 (rel. Nov. 7, 2005) (“*Public Notice*”).

¹² While Qwest has been helpful in PSAP out-reach and in facilitating shell creation it has refused to make pANI-ESQK available. Other ILECs have also refused to make pANI-ESQK available and have been less helpful in other respects.



further obstruction, but will send precisely the wrong signal regarding this Commission's objectives concerning industry cooperation as well as the future of the E911 system

While public safety and the customers situated in Verizon's footprint are ultimately rewarded for the company's efforts, it seems unreasonable to enforce a marketing restriction on IVPs that would have no effect but to deny fully informed customers the opportunity to obtain a nomadic VoIP service that is currently available to other grandfathered customers notwithstanding the E911 limitations. This policy seems even more unreasonable when the result would be to do nothing more than safeguard the selfish interests of carriers who have done nothing but flaunt this Commission's reasonable call to put aside short term competitive interests and take steps necessary to protect homeland security and public safety.

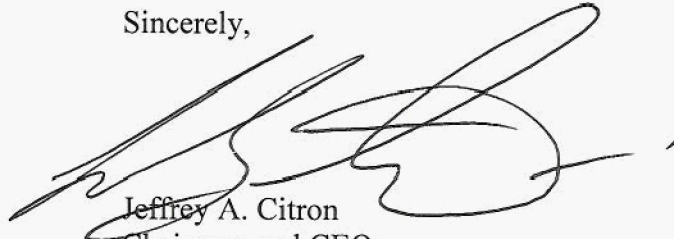
Vonage once again reiterates its commitment to build VoIP E-911 as quickly as possible. Because of the previously recognized challenges in deploying nomadic VoIP solutions, the importance of a pANI-ESQK administrator and the reliance of the *Order* on *voluntary* third party cooperation, Vonage respectfully submits the Bureau should reconsider its expectations and carefully evaluate whether limited additional time and additional measures may be warranted in order to achieve the Commission's goals. Indeed, Vonage believes that, assuming pANI-ESQK availability and full cooperation from ILECs and PSAPs, it can begin to test and deploy VoIP 911 services in areas covered by its network a time frame acceptable to the Commission.¹³

¹³ This assumes that ILECs devote the necessary staffing and resources to the task and, *inter alia*: (1) assign pANI-ESQK (or that it can be obtained by Vonage from an administrator) an appropriately sized ESQK pool for each ESN and PSAP; (2) if requested, create VOIP ESNs for PSAPs; (3) build VoIP MSAG entries; (4) associate pANI-ESQK to shells and build ALI steering to the appropriate VPC; (5) provide ALI access to the IVP's VPC on reasonable terms and conditions. Full PSAP cooperation is also necessary. This includes, *inter alia*: (1) providing information regarding current capabilities (ALI interface, CPE equipment, etc) necessary to accept VoIP calls; (2) making a determination which ESN to use and placing any necessary orders with the LEC; (3) requesting and approving the VoIP MSAG entry request from the LEC/ALI provider; (4) providing PSAP boundaries in an acceptable format and in a timely manner; (5) assistance in reasonable testing procedures.



Vonage looks forward to continuing to work with the Commission and other parties on this important effort.

Sincerely,



Jeffrey A. Citron
Chairman and CEO
Vonage Holdings Corp.

cc: Commissioner Kathleen Q. Abernathy
Commissioner Jonathan S. Adelstein
Commissioner Michael J. Copps
Michelle Carey, Legal Advisor for Chairman Martin
Russell Hanser, Legal Advisor for Commissioner Abernathy
Scott Bergmann, Legal Advisor for Commissioner Adelstein
Jessica Rosenworcel, Legal Advisor for Commissioner Copps
Kris Monteith, Enforcement Bureau Chief
Kathy Berthot, Enforcement Bureau Spectrum Enforcement Division Deputy
Chief
Thomas Navin, Wireline Competition Bureau Chief
Julie Veach, Wireline Competition Deputy Bureau Chief
Sam Feder, General Counsel
Marlene H. Dortch, Office of the Secretary